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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,533	06/19/2001	Steve Campbell /	11011-7801	2606

7590 01/02/2003  
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EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/884,533

Applicant(s)

CAMPBELL, STEVE

Examiner

Aaron M Dunwoody

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-21 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Information Disclosure Statement***

No Information Disclosure Statement submitted.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "28" and "30" have both been used to designate edge 30, and reference characters "310" and "306" have both been used to designate inner walls. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to because a bracket should embrace the illustrations of Figures 2, 7, 9, 12, 14, 15, 18, 21 and 26-28. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 54, 78, 84, 99, 126 and 137. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

The disclosure is objected to because of the following informalities:

Page 20, lines 1-3, recites, "Terminal pins 38 and 40 are positioned in this fashion to protrude between abutted end walls 18"; however, it is not clear to the examiner how the terminal pins can protrude through abutted walls. The flat surface of the end walls will not totally abut when the terminal pins are in between them.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-17, 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14-17, 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: providing the element or elements required to complete the method of joining thermoplastic pipes.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 5,494,318, Butts et al.

In regards to claim 1, Butts et al discloses a joint comprising a pair of thermoplastic pipes (10), each of the pipes having an end margin terminating at a pipe end, the end margin of each of the pipes having radially spaced annular first and second walls (11, 12) separated by a void, the first wall of each of the pipes being one of inner and outer walls, the second wall of each of the pipes being the other of the inner and outer walls; and an annular coupler (14a) having axially opposite end portions, one of the axial end portions of the coupler being positioned between the inner and outer walls of one of the pipes and the other of the axial end portions of the coupler being positioned between the inner and outer walls of the other of the pipes, the coupler engaging the first walls of the pipes via an annular interference fit, the coupler being at least partially formed of thermoplastic material and at least one of the axial end portions of the coupler being heat-fused to the end margin of at least one of the pipes.

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In regards to claim 2, Butts et al discloses the coupler being dimensioned such that each of the axial end portions of the coupler is radially spaced from the second wall of the respective pipe.

In regards to claim 3, Butts et al discloses the first wall of each of the pipes being the inner wall of the respective pipe and the second wall of each of the pipes is the outer wall of the respective pipe.

In regards to claim 7, Butts et al discloses each of the axial end portions of the coupler tapering radially in a manner such that the first walls of the pipes are radially deflected as a result of the engagement of the coupler therewith.

In regards to claim 8, Butts et al discloses the coupler being heat fused directly to the first walls of the pipes.

In regards to claim 9, Butts et al discloses the coupler being heat fused to the end margins of the pipes circumferentially about the coupler to provide an annular seal between the coupler and the end margins.

Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 5,433,484, Ewen et al.

In regards to claim 1, Ewen et al discloses a joint comprising a pair of thermoplastic pipes (106, 106', 108, 108'), each of the pipes having an end margin terminating at a pipe end, the end margin of each of the pipes having radially spaced annular first and second walls separated by a void, the first wall of each of the pipes being one of inner and outer walls, the second wall of each of the pipes being the other

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of the inner and outer walls; and an annular coupler (126) having axially opposite end portions, one of the axial end portions of the coupler being positioned between the inner and outer walls of one of the pipes and the other of the axial end portions of the coupler being positioned between the inner and outer walls of the other of the pipes, the coupler engaging the first walls of the pipes via an annular interference fit, the coupler being at least partially formed of thermoplastic material and at least one of the axial end portions of the coupler being heat-fused to the end margin of at least one of the pipes.

In regards to claim 2, Ewen et al discloses the coupler being dimensioned such that each of the axial end portions of the coupler is radially spaced from the second wall of the respective pipe.

In regards to claim 3, Ewen et al discloses the first wall of each of the pipes being the inner wall of the respective pipe and the second wall of each of the pipes is the outer wall of the respective pipe.

In regards to claim 7, Ewen et al discloses each of the axial end portions of the coupler tapering radially in a manner such that the first walls of the pipes are radially deflected as a result of the engagement of the coupler therewith.

In regards to claim 8, Ewen et al discloses the coupler being heat fused directly to the first walls of the pipes.

In regards to claim 9, Ewen et al discloses the coupler being heat fused to the end margins of the pipes circumferentially about the coupler to provide an annular seal between the coupler and the end margins.

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Claims 10 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 5,824,179, Greig.

In regards to claim 10, Greig discloses a joint comprising a pair of thermoplastic pipes (10, 12), each of the pipes having an end margin terminating at a pipe end, the end margin of each of the pipes having radially spaced annular first and second walls (30, 38) separated by a void (34), the first wall of each of the pipes being one of inner and outer walls, the second wall of each of the pipes being the other of the inner and outer walls; and an annular coupler (14) having axially opposite end portions, one of the axial end portions of the coupler being positioned circumjacent the first wall of one of the pipes and the other of the axial end portions of the coupler being positioned circumjacent the first wall of the other of the pipes, the coupler engaging the first walls of the pipes via an interference fit in a manner such that the first wall of the end margin of each of the pipes radially deflects toward the second wall of the end margin of the respective pipe, the radial deflection being greatest at the end of the respective pipe and decreasing with distance from the end of the respective pipe, the coupler being at least partially formed of thermoplastic material and at least one of the axial end portions of the coupler being heat-fused to the end margin of at least one of the pipes.

In regards to claim 11, Greig discloses the first wall of each of the pipes being the outer wall of the respective pipe and the second wall of each of the pipes being the inner wall of the respective pipe.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butt et al. In regards to claims 12-90, Butt et al discloses the claimed invention except for the method of joining thermoplastic pipes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a method of joining thermoplastic pipes, since under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification, it can be assumed the device will inherently perform the same process. *In re King*, 802 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

Claims 12-14, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ewen et al. In regards to claims 12-90, Ewen et al discloses the claimed invention except for the method of joining thermoplastic pipes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a method of joining thermoplastic pipes, since under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily

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perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification, it can be assumed the device will inherently perform the same process. *In re King*, 802 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

***Allowable Subject Matter***

Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is (703) 306-3436. The examiner can normally be reached on Monday - Friday between 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

.amd *AD*  
December 29, 2002

*[Signature]* for  
Lynne H. Browne  
Supervisory Patent Examiner  
Technology Center 3670

Anthony Knight  
Supervisory Patent Examiner  
Group 3600